

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VINCENT BERTOLINO,)

Plaintiff,)

-against-)

THE CITY OF NEW YORK; POLICE OFFICER)

LUIS CASTILLO, Shield No. 20688; POLICE)

OFFICER JORGE ROCA, Shield No. 17786;)

POLICE OFFICER DIANA ESCALERA, Shield)

No. 1699; POLICE OFFICER JOHN NUNEZ;)

JOHN DOE #1; POLICE LIEUTENANT VITO)

LABELLA; POLICE LIEUTENANT MICHAEL)

GULINELLO; POLICE OFFICER "FNU" [FIRST)

NAME UNKNOWN] LOPEZ; JOHN DOES; and)

RICHARD ROES,)

Defendants.)

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15 Civ. 7327 (RJS)

**DECLARATION OF JEFFREY A. ROTHMAN IN SUPPORT OF
PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT**

JEFFREY A. ROTHMAN declares, pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following is true and correct:

1. I am the attorney for plaintiff Vincent Bertolino, who has brought suit seeking redress for violation of his civil rights pursuant to 42 U.S.C. § 1983, and related violation of his rights under New York State Law. As such, I am fully familiar with all of the facts stated below, and all of the facts and circumstances of this action. This declaration is made in support of plaintiff's Request for Entry of Default.

2. This action was commenced on September 16, 2015 by the filing of the Complaint (docket #1). On October 26, 2015 defendants City of New York, Diana Escalera,

Luis Castillo, and John Nunez were each properly served with the Summons and Complaint (see, proof of service, docket # 12).

3. An Amended Complaint was filed on January 5, 2016 (docket #12). On January 11, 2016 defendant Jorge Roca was properly served with the summons and Amended Complaint (see, proof of service, docket # 16).

4. Pursuant to Judge Sullivan's Order dated March 4, 2016 (electronically docketed on March 7, 2016 as docket # 27), Plaintiff filed a Second Amended Complaint on March 7, 2016 (docket # 28). On June 3, 2016 defendants Vito Labella, Michael Gulinello, and Hector Lopez were properly served with the summons and Second Amended Complaint (see, proof of service, docket # 41).

5. On May 9, 2016 Judge Sullivan denied Defendants' motion to dismiss the Second Amended Complaint (docket # 36).

6. Pursuant to Fed.R.Civ.P. 15(a)(3), Defendants' answer to the Second Amended Complaint was therefore due 14 days later, on May 23, 2016.

7. None of the Defendants have answered the Second Amended Complaint and the time for Defendants to answer has expired.

8. Plaintiff has no reason to believe that any of the Defendants are a minor, in the military, or are incompetent persons.

Dated: New York, New York
September 6, 2016

/S/ Jeffrey A. Rothman
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